



DEVELOPMENT SERVICES DEPARTMENT
ENVIRONMENTAL COORDINATOR
450 110th Ave NE., P.O. BOX 90012
BELLEVUE, WA 98009-9012

OPTIONAL DETERMINATION OF NON-SIGNIFICANCE (DNS) NOTICE MATERIALS

The attached materials are being sent to you pursuant to the requirements for the Optional DNS Process (WAC 197-11-355). A DNS on the attached proposal is likely. This may be the only opportunity to comment on environmental impacts of the proposal. Mitigation measures from standard codes will apply. Project review may require mitigation regardless of whether an EIS is prepared. A copy of the subsequent threshold determination for this proposal may be obtained upon request.

File No. 15-107116-LQ
Project Name/Address: Belle-View Office Park Rezone/275-325 118th Ave SE
Planner: Laurie Tyler
Phone Number: (425)-452-2728

Minimum Comment Period: June 18, 2015, 5PM

Materials included in this Notice:

- ☒ Blue Bulletin
- ☒ Checklist
- ☒ Vicinity Map
- ☒ Plans
- ☐ Other:

ENVIRONMENTAL CHECKLIST

10/9/2009

Thank you in advance for your cooperation and adherence to these procedures. If you need assistance in completing the checklist or have any questions regarding the environmental review process, please visit or call Development Services (425-452-6800) between 8 a.m. and 4 p.m., Monday through Friday (Wednesday, 10 to 4). Assistance for the hearing impaired: Dial 711 (Telecommunications Relay Service).

INTRODUCTION

Purpose of the Checklist:

The State Environmental Policy Act (SEPA), Chapter 43.21c RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the City of Bellevue identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the City decide whether an EIS is required.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Answer the questions briefly, with the most precise information known, or give the best description you can. You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer or if a question does not apply to your proposal, write "do not know" or "does not apply." Giving complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the Planner in the Permit Center can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. Include reference to any reports on studies that you are aware of which are relevant to the answers you provide. The City may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impacts.

Use of a Checklist for Nonproject Proposals: *A nonproject proposal includes plans, policies, and programs where actions are different or broader than a single site-specific proposal.*

For nonproject proposals, complete the Environmental Checklist even though you may answer "does not apply" to most questions. In addition, complete the Supplemental Sheet for Nonproject Actions available from Permit Processing.

For nonproject actions, the references in the checklist to the words *project*, *applicant*, and *property* or *site* should be read as *proposal*, *proposer*, and *affected geographic area*, respectively.

Attach an 8 ½" x 11 vicinity map which accurately locates the proposed site.

BACKGROUND INFORMATION

Property Owner: JM Ventures/ JMS Ventures

Proponent: Michael McClure

Contact Person: Michael McClure

(If different from the owner. All questions and correspondence will be directed to the individual listed.)

Address: 6725 116th Ave NE, Suite 100, Kirkland, WA 98033

Phone: (206) 817-1334

Proposal Title: Remove Concomitant Agreement from Belle-View Office Park

Proposal Location: 275/325 118th Ave SE, Bellevue, WA

(Street address and nearest cross street or intersection) Provide a legal description if available.

Please attach an 8 ½" x 11" vicinity map that accurately locates the proposal site.

Give an accurate, brief description of the proposal's scope and nature:

1. General description: We are submitting this proposal to remove the 1977 Concomitant Agreement associated with the Belle-View Office Park.
2. Acreage of site: 3.68 Acres
3. Number of dwelling units/buildings to be demolished: 0
4. Number of dwelling units/buildings to be constructed: 0
5. Square footage of buildings to be demolished: 0
6. Square footage of buildings to be constructed: 0
7. Quantity of earth movement (in cubic yards): 0
8. Proposed land use: The existing parcels are zoned "O". There are no proposed changes to the uses allowed under this zoning
9. Design features, including building height, number of stories and proposed exterior materials:
There is no specific new development proposed, this is simply a request to remove the 1977 Concomitant Agreement. Any future development would likely be office or residential as currently allowed in Zone "O"
10. Other

Estimated date of completion of the proposal or timing of phasing:

There is no specific new development proposed, this is simply a request to remove the 1977 Concomitant Agreement. Any future development would likely be office or residential as currently allowed in Zone "O".

Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

We have provided concepts for both residential and office, both of which are already allowed in Zone "O". Our main purpose for removing the Concomitant Agreement is to develop these concepts under current design regulations.

List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

We have provided copies of previous Phase I reports.

Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain. List dates applied for and file numbers, if known.

We know if no other applications.

List any government approvals or permits that will be needed for your proposal, if known. If permits have been applied for, list application date and file numbers, if known.

We have not submitted for any building permits, but have provided a couple concepts that adhere to current code in the "O" zone.

Please provide one or more of the following exhibits, if applicable to your proposal.
(Please check appropriate box(es) for exhibits submitted with your proposal):

- ☐ Land Use Reclassification (rezone) Map of existing and proposed zoning
- ☐ Preliminary Plat or Planned Unit Development
Preliminary plat map
- ☐ Clearing & Grading Permit
Plan of existing and proposed grading
Development plans
- ☐ Building Permit (or Design Review)
Site plan
Clearing & grading plan
- ☐ Shoreline Management Permit
Site plan

A. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site: ☒ Flat ☐ Rolling ☐ Hilly ☐ Steep slopes ☐ Mountains ☐ Other

b. What is the steepest slope on the site (approximate percent slope)? See provided survey

c. What general types of soil are found on the site (for example, clay, sand, gravel, peat, and muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

Dirt, clay, and sand

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

No

LT
5/18/15

- e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

None is currently proposed

- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Not likely, as any future development will be in the existing parking lot.

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Neither of our future concepts will increase impervious surface as we are developing in the existing parking lot.

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

We will submit these specifics with our building permit.

2. AIR

- a. What types of emissions to the air would result from the proposal (i.e. dust, automobile odors, and industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

None

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

None

- c. Proposed measures to reduce or control emissions or other impacts to the air, if any:

None

3. WATER

- a. Surface

- (1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

None

- (2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If Yes, please describe and attach available plans.

No

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5/18/15

- (3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

None

- (4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

No

- (5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

No

- (6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

None

b. Ground

- (1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description.

No

- (2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.) Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

None

c. Water Runoff (Including storm water)

- (1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

No change to the existing system is proposed

- (2) Could waste materials enter ground or surface waters? If so, generally describe.

No

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- d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:
These measure would be proposed as part of a future building permit.

4. Plants

- a. Check or circle types of vegetation found on the site:

- ☒ deciduous tree: alder, maple, aspen, other
☒ evergreen tree: fir, cedar, pine, other
☒ shrubs
☒ grass
☐ pasture
☐ crop or grain
☐ wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other
☐ water plants: water lily, eelgrass, milfoil, other
☐ other types of vegetation

- b. What kind and amount of vegetation will be removed or altered?

None - future development will be in the existing parking lot

- c. List threatened or endangered species known to be on or near the site.

None

- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

This would be proposed as part of a future building permit

5. ANIMALS

- a. Check or circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

- ☒ Birds: hawk, heron, eagle, songbirds, other:
☐ Mammals: deer, bear, elk, beaver, other:
☐ Fish: bass, salmon, trout, herring, shellfish, other:

LT
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b. List any threatened or endangered species known to be on or near the site.

None

c. Is the site part of a migration route? If so, explain.

No

d. Proposed measures to preserve or enhance wildlife, if any:

None

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy need? Describe whether it will be used for heating, manufacturing, etc.

We will use existing electric energy

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

No

c. What kinds of energy conservation features are included in the plans of the proposal? List other proposed measures to reduce or control energy impacts, if any:

Details will be proposed as part of a future building permit

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

No

(1) Describe special emergency services that might be required.

None

(2) Proposed measures to reduce or control environmental health hazards, if any.

This would be proposed as part of a future building permit

b. Noise

- (1) What types of noise exist in the area which may affect your project (for example, traffic, equipment, operation, other)?

None

- (2) What types and levels of noise would be created by or associated with the project on a short-term or long-term basis (for example, traffic, construction, operation, other)? Indicate what hours noise would come from the site.

None

- (3) Proposed measures to reduce or control noise impacts, if any:

This would be proposed as part of a future building permit

8. Land and Shoreline Use

- a. What is the current use of the site and adjacent properties?

The current site has two office buildings - surrounding properties are either office or residential

- b. Has the site been used for agriculture? If so, describe.

No

- c. Describe any structures on the site.

The current site has two office buildings

- d. Will any structures be demolished? If so, what?

No

- e. What is the current zoning classification of the site?

O

- f. What is the current comprehensive plan designation of the site?

Wilburton

- g. If applicable, what is the current shoreline master program designation of the site?

N/A

- h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

No

- i. Approximately how many people would reside or work in the completed project?

We have submitted two concept buildings, one office and one residential. The office building is no different than what is allowed now. The residential concept shows 53 units, which is 21 units more than is currently allowed.

- j. Approximately how many people would the completed project displace?

None

k. Proposed measures to avoid or reduce displacement impacts, if any:

Not applicable

i. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

This would be proposed as part of a future building permit

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

In the future, as many as 53 units might be provided, which is 21 units more than is currently possible with the Concomitant Agreement in place

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

N/A

c. Proposed measures to reduce or control housing impacts, if any:

This would be proposed as part of a future building permit, if we decide to build residential onsite.

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

Our residential concept shows 3 stories totaling 30 feet. Building materials would be specified as part of a future building permit.

b. What views in the immediate vicinity would be altered or obstructed?

None

c. Proposed measures to reduce or control aesthetic impacts, if any:

This would be proposed as part of a future building permit.

11. Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

Not known yet

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

Not known yet

- c. What existing off-site sources of light or glare may affect your proposal?

Not known yet

- d. Proposed measures to reduce or control light or glare impacts, if any:

This would be part of our future building permit.

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?

Bellevue Botanical Garden

- b. Would the proposed project displace any existing recreational uses? If so, describe.

No

- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

This would be part of our future building permit.

13. Historic and Cultural Preservation

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

No

- b. Generally describe any landmarks or evidence of historic, archeological, scientific, or cultural importance known to be on or next to the site.

None

- c. Proposed measures to reduce or control impacts, if any:

None

14. Transportation

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.

118th Ave SE

- b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

Yes

- c. How many parking spaces would be completed project have? How many would the project eliminate?

As many as 74 parking stalls would be added, depending on which produce type we building in the future

- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

No

- e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

No

- f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

Not known. If we build office, there would be no more trips than are allowed under today's zoning. If we build residential, as many as 24 more apartments could be built on the site compared to today's zoning.

- g. Proposed measures to reduce or control transportation impacts, if any:

This would be proposed as part of a future building permit.

15. Public Services

- a. Would the project result in an increased need for the public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

No

- b. Proposed measures to reduce or control direct impacts on public services, if any:

This would be part of a future building permit.

16. Utilities

- a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

Electricity, Natural gas, water, refuse, telephone, sewer, internet

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

No new utilities are proposed

Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Michael Mc Clure

Signature.....Date Submitted.....05/06/2015

City of Bellevue Submittal Requirements	28
SUPPLEMENTAL SHEET FOR NONPROJECT ACTION Continuation of the Environmental Checklist	
4/18/02	
<p>Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment (see Environmental Checklist, B. Environmental Elements). When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms. If you have any questions, please visit or call Development Services (425-452-6800) between 8 a.m. and 4 p.m., Monday through Friday (Wednesday, 10 to 4). Assistance for the hearing impaired: Dial 711 (Telecommunications Relay Service).</p>	
<p>1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?</p> <p>No increase is anticipated</p> <p style="padding-left: 40px;">Proposed measures to avoid or reduce such increases are:</p> <p>N/A</p> <p>2. How would the proposal be likely to affect plants, animals, fish, or marine life?</p> <p>No impact is anticipated</p> <p style="padding-left: 40px;">Proposed measures to protect or conserve plants, animals, fish, or marine life are:</p> <p>N/A</p> <p>3. How would the proposal be likely to deplete energy or natural resources?</p> <p>No impact is anticipated</p> <p style="padding-left: 40px;">Proposed measures to protect or conserve energy or natural resources are:</p> <p>N/A</p>	
<div style="border: 1px solid green; padding: 2px; display: inline-block;"> LT 5/18/15 </div>	

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection--such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

No impact is anticipated

Proposed measures to protect such resources or to avoid or reduce impacts are:

N/A

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

No impact is anticipated

Proposed measures to avoid or reduce shoreline and land use impacts are:

N/A

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

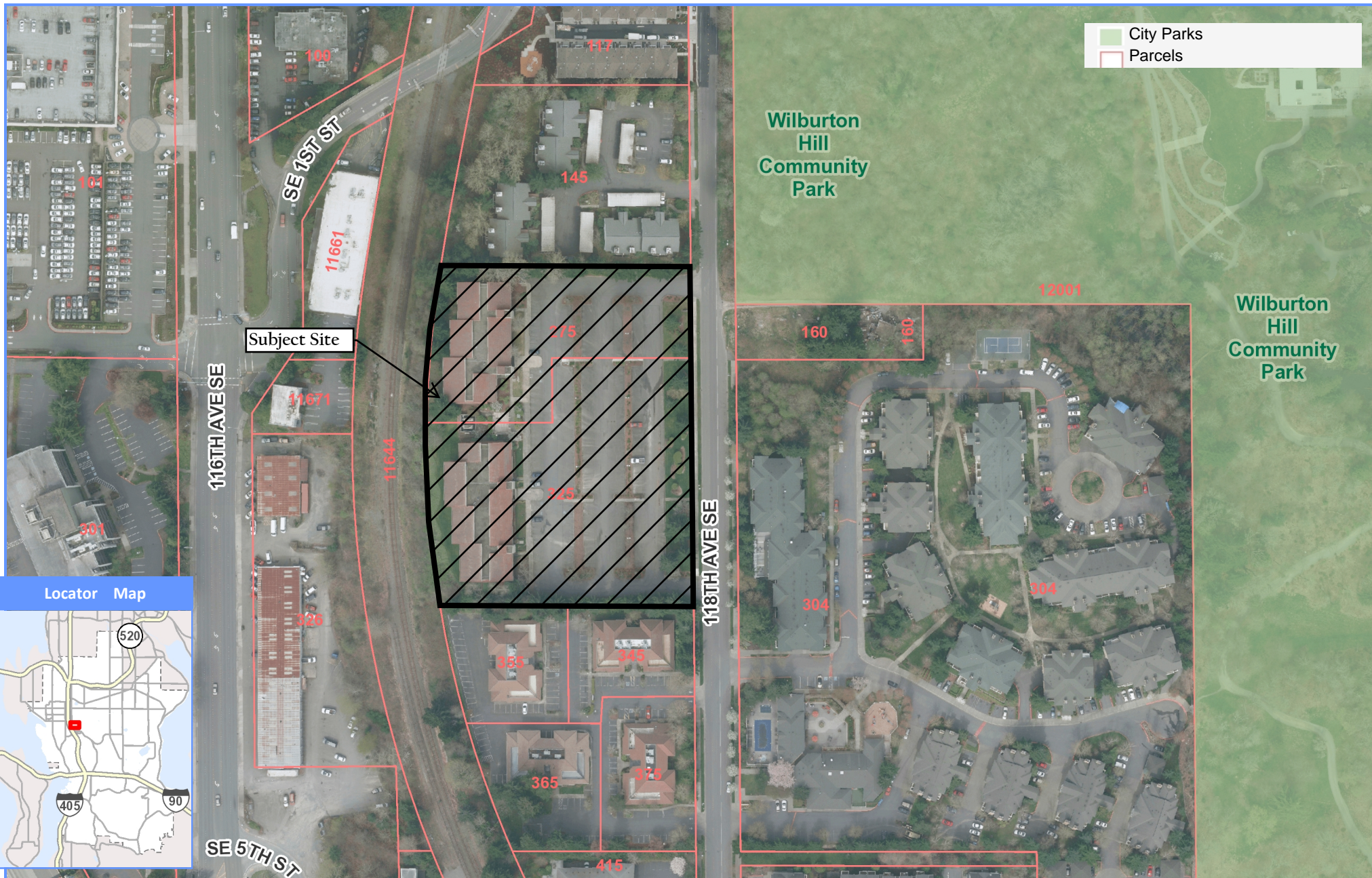
No impact is anticipated

Proposed measures to reduce or respond to such demand(s) are:

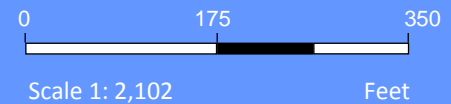
N/A

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

No conflict is anticipated



275/325 118th Ave SE



Received
MAR 11 2015
Permit Processing

Belle-View Office Park Narrative Description



Belle-View Office Park
Bellevue, WA
3/10/2015

Project Overview

Belle-View Office Park is a two building, high quality office development located in Bellevue, Washington. Belle-View North is a two story office building and Belle-View South is a three-story office building. Both are located on the Eastern side of I-405, on 118th Avenue SE, just west of the Bellevue Botanical Garden. Both buildings have sweeping views of the downtown Bellevue skyline.

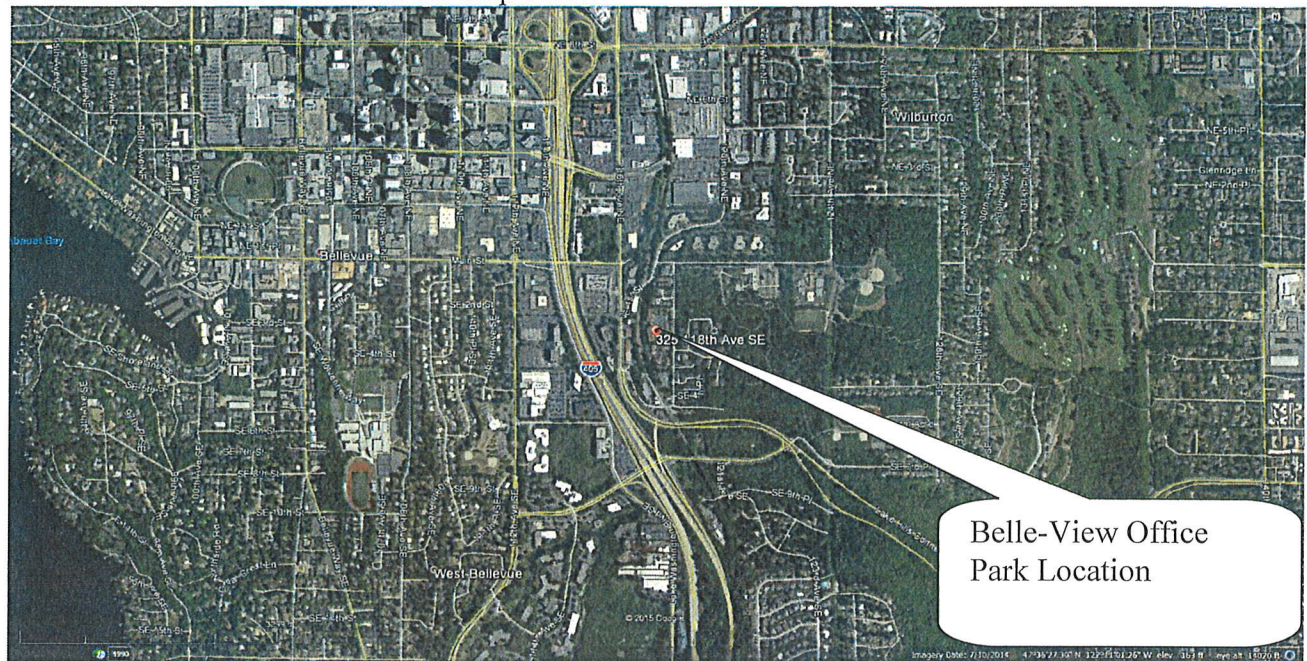


The location is great for Bellevue Companies due to its proximity to downtown with easy access to I-405 and other major arterials. The building is part of the suburban Bellevue submarket on the East side of Seattle. The site is serviced by the SE 8th and NE 4th Street exits off I-405 to both north and south bound traffic. Both buildings recently received a substantial upgrade and face-lift as shown in the pictures on this page.



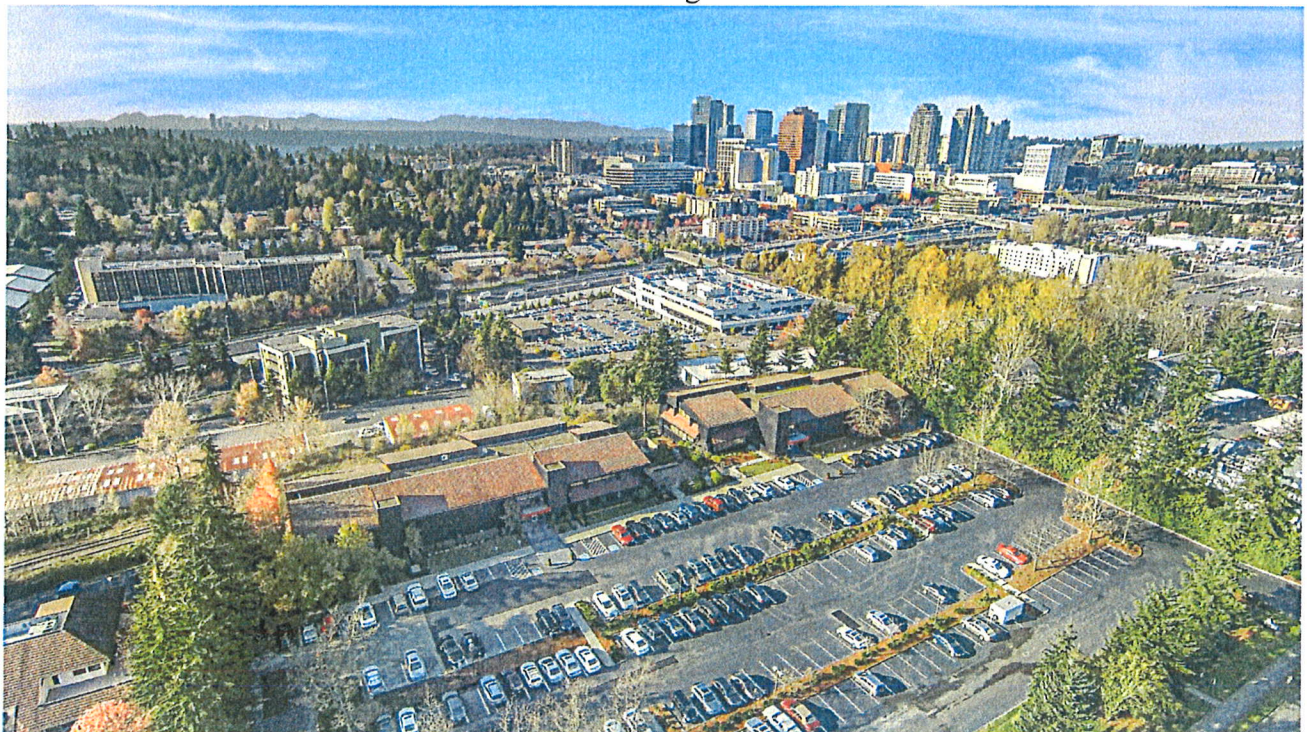
Location

The Belle-View Office Park is located just to the east of 405 and just to the west of the Bellevue Botanical Garden as labeled on the map below.



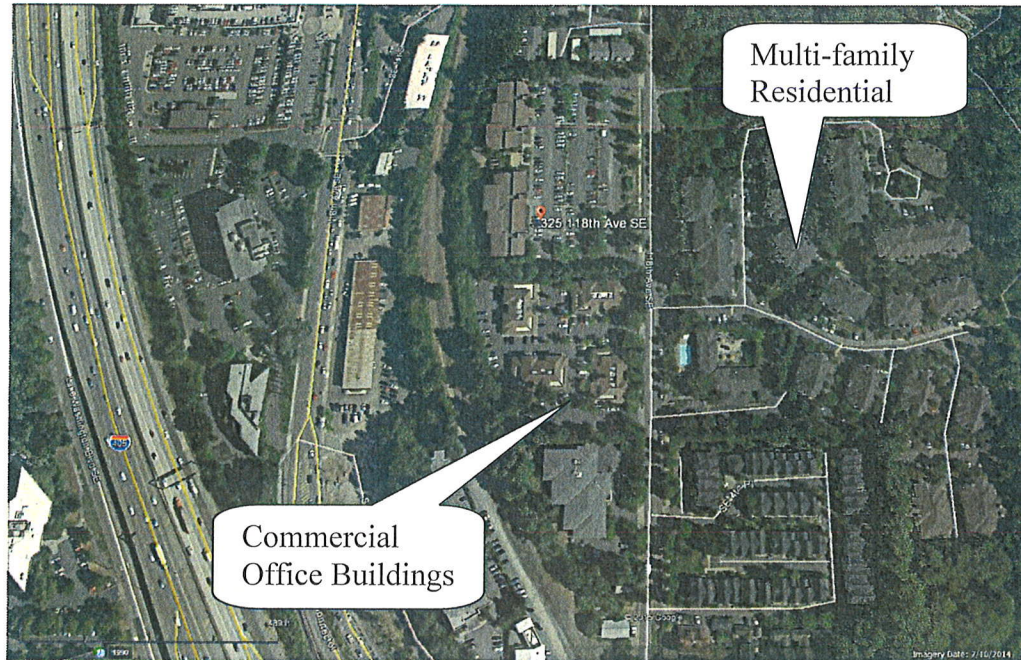
Aerial

This aerial shows the Belle-View Office Park buildings in relation to downtown Bellevue



Surrounding Properties

Today the properties surrounding the Belle-View Office Park include commercial buildings to the North, South, and West, and multi-family residential developments to the East.



Reasons for Our Submittal

We are submitting this proposal to remove the 1977 Concomitant Agreement associated with these properties, which is attached as Exhibit A. This agreement restricts our ability to develop the properties in accordance with the most recent Wilburton sub-area plan. Our plan is to add another office or multi-family building to the property and modernize the parking lot as shown in Exhibit B.

The 1977 Concomitant Agreement was created to place limits on multi-family and office development as part of a rezone from R-A to O. This made sense almost 40 years ago based on the surrounding developments at that time.

Today's Vision for the Wilburton Area

Updated development codes have been passed to support more modern office and residential development in this area. All of the surrounding properties have been developed as either commercial office buildings or multi-family developments.

In addition, the city's vision for this area has substantially changed since 1977. The most recent Wilburton sub-area plan for this particular area, attached as Exhibit C, is:

POLICY S-WI-5. The area between the Burlington Northern Railroad tracks and 118th Avenue S.E., if extended to the north, and approximately 190 feet north of S.E. 5th Street and south of the Main Street extension is appropriate for Office and Multifamily Medium density residential uses in accordance with the Land Use Plan (Figure S-WI.1). Proposed projects within the area should be subject to design review to insure that structures are residential in design, height, and bulk. Properties north of Main Street need not be residential in design, height, and bulk if access and orientation are to N.E. 1st Street and if the structures are visually screened from properties to the south.

We are currently investigating continuing our investment in the area with possible Office and Multifamily Medium density uses as stated above, but find the 1977 Concomitant Agreement to be prohibitive in accomplishing the City's stated policy for this sub-area.

Restrictions due to the Concomitant Agreement

The 1977 Concomitant Agreement refers to Chapter 18 of the Bellevue Zoning Code, which has since been removed and is outdated. This means that there are actually two codes that must be dealt with for any new development. The 1977 abbreviated code doesn't address all the current standards, which leaves a gray area between this older code and Bellevue's current code.

For clarity, one standard should be used and it should be the current code.

Dealing with both obsolete code from 1977 AND today's more modern code for the same development makes new development both impractical and uneconomical. Specific restrictions include:

1. Maximum Building Height: Residential buildings are limited in height to two stories.
2. Residential units per building are restricted to 8 for a two story building
3. The combination of these first two restrictions means building medium density residential requires multiple separate buildings
4. Yard space between these buildings must be at least 20 feet
5. Two parking spaces are required per dwelling unit independent of how many studios and one-bedroom units are designed into the building
6. Out of date parking space sizes don't allow for parking efficiency (9 feet wide and 20 feet deep)
7. Out of date drive aisle requirements don't allow for efficient drive aisles (24 feet)

We respectfully submit our application to remove the 1977 Concomitant Agreement from our properties.

Exhibit A

1977 Concomitant Agreement

27 99

FILED NO. 4280
CITY OF BELLEVUE
DATE 7-11-77

CITY CLERK *P. W. [signature]*

CONCOMITANT ZONING AGREEMENT

WHEREAS, the City of Bellevue, Washington, a non-charter code city, under the laws of the State of Washington (Chapter 35A.63 RCW and Article 11, Section 11 of the Washington State Constitution) has authority to enact laws and enter into agreements to promote the health, safety and welfare of its citizens, and thereby control the use and development of property within its jurisdiction; and

WHEREAS, the holders of a vendee interest in certain property (hereafter called Vendee) have applied for a rezone of such property described below within the City's jurisdiction from R-A to O; and

WHEREAS, the City pursuant to RCW 43.210 of the State Environmental Policy Act should mitigate any adverse impacts which might result because of the proposed rezone; and

WHEREAS, the City of Bellevue, the Owner of the property and the Vendee are interested in compliance with the Bellevue City Code provisions relating to the use and development of the property situated in the City of Bellevue, Washington, described as follows:

The north 1/2 of that part of lot 3 lying E. of the right-of-way of the Northern Pacific Railway Company; and that part of lot 4 comprising one acre, which is bounded on the E. by the E. line of said lot 4, and the S. by the S. line of said lot 4, on the W. by the Northern Pacific Railway Company's right-of-way, and on the N. by line parallel with the S. line of said lot 4, all in Strawberry lawn, according to plat thereof recorded in volume 4 of plats, page 30-1/2, records of said county (KING).

WHEREAS, the Owner and the Vendee have indicated willingness to cooperate with the City of Bellevue, its Planning Commission and Planning Department to insure compliance with the Bellevue Zoning Code, the Bellevue Sign Code and all other local, state and federal laws relating to the use and development of the above described property; and

77-99

WHEREAS, the City, in addition to civil and criminal sanctions available by law, desires to enforce the rights and interests of the public by this concomitant agreement;

NOW, THEREFORE, in the event the above-described property is rezoned by the City of Bellevue from R-A to O and in consideration of that event should it occur, and subject to the terms and conditions hereinafter stated, the Owner and the Vendee do hereby covenant and agree as follows:

1. The Owner and the Vendee promise to comply with all of the terms and conditions of this agreement in the event the City, as full consideration herein, rezones the above described property from R-A to O.
2. Specific Conditions:
 - a. The design of any development of the property must be reviewed and approved by the Bellevue Planning Commission;
 - b. Any multifamily development of the property must comply with the requirements of MR-3L use district for such development (Limitation to two stories);
 - c. Any development of the property must comply with the development standards set forth in Section 18.14.280, (O-L special conditions), of the Bellevue Zoning Code;
 - d. Any development of the property must provide landscaping on the east 20 ft. of the property; and
 - e. The design and materials used for the roof of any development of the property must be of residential character and be compatible with nearby residential properties. Mechanical equipment must be screened from view of neighboring properties.
3. In the event that any term or clause of this agreement conflicts with applicable law, such conflicts shall not affect other

terms of this agreement which can be given effect without the conflicting term or clause, and to this end the terms of this agreement are declared to be severable.

4. No modifications of this agreement shall be valid unless mutually agreed upon by all parties in writing and recorded with the King County Department of Records and Elections.

5. In addition to all other remedies available to the City by law, the City reserves the right to initiate proceedings to revoke the rezoning of the above-described property should the Owner or the Vendee fail to comply with any of the terms and conditions of this agreement.

6. The City may at its discretion bring a lawsuit to compel specific performance of the terms of this agreement.

7. In addition to all remedies available under this agreement and available to the City by law, the City shall be entitled to reasonable attorney's fees in any action necessary to enforce this agreement.

8. Nothing in this agreement shall be construed to restrict the authority of the City to exercise its power to rezone this property in future years.

9. The owner and the Vendee agree to indemnify and save harmless the City of Bellevue from and against all claims, suits,

damages, costs, losses and expenses in any manner resulting from, arising out of, or connected with the Owner's or the Vendee's negligent performance of or failure to perform fully any term or condition of this agreement.

10. This agreement shall be binding on the heirs, assigns, and successors of the Owner and the Vendee of the property herein described.

Dated this 31st day of May, 1977.

The person(s) whose names are subscribed herein do hereby certify that they are the sole holders of fee simple interest in the above described property or the holders of a vendee's interest in said property:

OWNER:

Charles B. Smith
Charles B. Smith

VENDEE:

Real Estate Contract dated August 17, 1973 between Charles B. Smith, seller, and First Bellevue Associates, a Washington Limited Partnership, purchaser, King County Auditor No. 7309120007, modified by agreement dated August 13, 1975.

FIRST BELLEVUE ASSOCIATES, a Washington Limited Partnership,
By Paul D. Dunstan, its General Partner

Paul D. Dunstan
Paul D. Dunstan

STATE OF WASHINGTON }
COUNTY OF KING } SS

On this 31st day of May, 1977, before me the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared Paul D. Dunstan to me known to be the General Partner of the Limited Partnership that executed the foregoing instrument and acknowledged the same to be the free and voluntary act and deed of said Partnership, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of said Partnership.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Ivan Mursepang
Notary Public in and for the State of
Washington;
Residing at Bellevue

STATE OF WASHINGTON }
COUNTY OF KING } SS

On this day personally appeared before me Charles B. Smith to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

Given under my hand and official seal this 31st day of May, 1977.

Ivan Mursepang
Notary Public in and for the State of
Washington;
Residing at Bellevue

Approved as to form:

Lawrence E. Murphy
Assistant City Attorney